



08 SEP 2003

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In re Application of :
Laudenberg :
Application No. 09/830,806 : DECISION
PCT No.: PCT/GB99/03518 :
Int. Filing Date: 28 October 1999 : ON
Priority Date: 28 October 1998 :
Atty. Docket No.: 11783.0017.PCUS00 : PETITION
For: Apparatus And Method For :
Obtaining 3D Images :
:

This is in response to the provisional petition under 37 CFR 1.78(a)(2) filed on 17 September 2001.

BACKGROUND

This international application was filed on 28 October 1999, claimed an earlier priority date of 28 October 1998, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. On 04 May 2000, the International Bureau transmitted a copy of the published international application to the USPTO. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 30 April 2001 (since 28 April 2001 was a Saturday).

On 30 April 2001, applicant filed, *inter alia*, the required basic national fee.

On 29 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration, a surcharge under 37 CFR 1.492(e), and either \$303.00 in additional claim fees or cancellation of additional claims for which fees were due.

On 30 July 2001, applicant filed an executed declaration of the inventor, a surcharge under 37 CFR 1.492(e), and \$144.00 in small entity claims fees (\$135.00 for multiple dependent claims fee and \$9 for one extra total claim).

On 17 August 2001, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicant, indicating that the date of this application under 35 U.S.C. 371 (c)(1), (2) and (4) was 30 July 2001.

On 17 September 2001, applicant filed a preliminary amendment amending the first page of the specification to make reference to the national stage status of this application and

to claim benefit of priority to two earlier-filed British applications, as well as a provisional petition under 37 CFR 1.78(a)(2).

DISCUSSION

The provisional petition under 37 CFR 1.78(a)(2) is moot because this application is a national stage under 35 U.S.C. 371 of international application PCT/GB99/03518. Therefore, a claim to priority of the international application as an *earlier* application would not be appropriate. Furthermore, the claim to priority to a foreign application is governed by 37 CFR 1.55(a)(ii). Since the priority claim was made to the earlier foreign application in the PCT application, no petition is necessary for the claim to foreign priority. As such, the petition under 37 CFR 1.78(a)(2) is **DISMISSED AS MOOT**.

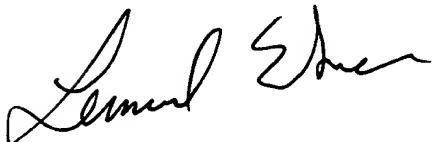
DECISION

The petitions under 37 CFR 1.78(a)(2) is **DISMISSED AS MOOT**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.78." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to Technology Center 3700 for further proceedings.



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